

EXHIBIT 105

REDACTED

In the Matter Of:

UNITED STATES vs

GOOGLE

EISAR LIPKOVITZ

November 09, 2023

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF VIRGINIA

3 -----X

4 UNITED STATES OF AMERICA, et al.,

5 Plaintiff,

6 -against- Civil Action No.

7 GOOGLE LLC, 1:23-cv-00108

8 Defendant.

9 ***CAPTION CONTINUED***

10 -----X

11 VIDEOTAPED STENOGRAPHIC DEPOSITION OF:

12 EISAR A. LIPKOVITZ

13 Thursday, November 9, 2023

14 Washington, D.C.

15 9:07 a.m. - 5:09 p.m.

16 HYBRID DEPOSITION

17

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23

24 Reported stenographically by:

25 Richard Germosen, FAPR, CA CSR No. 14391

RDR, CRR, CCR, CRCR, CSR-CA, NYACR, NYRCR

NCRA/NJ/NY/CA Certified Realtime Reporter

NCRA Realtime Systems Administrator

Job No. 2023-905987

26

27

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 -----X

4 ***CAPTION CONTINUED***

5 In Re: Google Digital Advertising

6 Antitrust Litigation,

7 1:21-md-3010 (S.D.N.Y.)

8 -----X

9 CONTINUED VIDEOTAPED TELECONFERENCED STENOGRAPHIC

10 DEPOSITION of EISAR A. LIPKOVITZ, taken in the

11 above-entitled matter before RICHARD GERMOSEN, Fellow of

12 the Academy of Professional Reporters, Certified Court

13 Reporter, (License No. 30XI00184700), Certified Realtime

14 Court Reporter-NJ, (License No. 30XR00016800),

15 California Certified Shorthand Reporter, (License No.

16 14391), NCRA/NY/CA Certified Realtime Reporter, NCRA

17 Registered Diplomate Reporter, New York Association

18 Certified Reporter, NCRA Realtime Systems Administrator,

19 taken at the offices of FRESHFIELDS BRUCKHAUS DERINGER

20 LLP, 700 13th Street, N.W., Washington, D.C. 20005, on

21 Thursday, November 9, 2023, commencing at 9:07 a.m.

22

23

24

25

1 A P P E A R A N C E S:

2

3

4 UNITED STATES DEPARTMENT OF JUSTICE

5 BY: JULIA TARVER WOOD, ESQ.

6 -and-

7 BY: MICHAEL FREEMAN, ESQ.

8 -and-

9 BY: JEFFREY G. VERNON, ESQ., (via BridgeMobile/Zoom)

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16 Attorneys for the Plaintiff,

17 United States of America

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13 Attorneys for the Publisher Class

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1 A P P E A R A N C E S: (CONT'D.)

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18 Attorneys for Inform, Inc., and Individual

19 Action Newspaper Publishers

20

21 ALSO PRESENT:

22 DAVID CAMPBELL, Legal Video Specialist

23 BRIAN SMITH, Video Zoom Monitor

24 MARA BOUNDY, ESQ., Google

25 JONATHAN WILKERSON, Lanier Law, (via Zoom)

1

I N D E X

2

WITNESS

EXAMINATION

3

EISAR A. LIPKOVITZ

4

BY ATTORNEY WOOD

12

5

6

E X H I B I T S

7

EXHIBIT NO. DESCRIPTION

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dated March 31, 2021

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	received by Eisar Lipkovitz	
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	during time at Google	
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**original exhibits returned with original transcript
 by LEXITAS LEGAL to US DEPARTMENT OF JUSTICE
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2

PROCEEDINGS

3

11:07 a.m.

4

Washington, D.C.

5

6

THE VIDEOGRAPHER: Stand by, please.

7

We are now on the record. My name is

8

David Campbell, and I'm a videographer retained by

9

Lexitas. Today's date is November 9, 2023, and the

10

time on the video monitor is 9:07 a.m. This

11

deposition is being held at 700 13th Street,

12

Northwest, 10th Floor, Washington, D.C. 20005.

13

This is in the matter of United

14

States of America versus Google LLC. The deponent

15

today is Eisar Lipkovitz. The court reporter today

16

is Rich Germosen also with Lexitas.

17

Counsel, will you please identify

18

yourselves for the record, after which the court

19

reporter will please swear in the witness and we can

20

proceed.

21

ATTORNEY WOOD: Julia Tarver Wood

22

from the United States Department of Justice on

23

behalf of the United States.

24

ATTORNEY FREEMAN: Michael Freeman,

25

part of the United States Department of Justice.

1 ATTORNEY MADDEN: Patrick Madden,
2 Berger Montague, on behalf of the publisher class
3 plaintiffs.

4 ATTORNEY MAIER: Eric Maier from
5 Kellogg Hansen on behalf of Daily Mail and Gwinnett.

6 ATTORNEY ELMER: Julie Elmer for the
7 witness and Google.

8 ATTORNEY SALEM: Sara Salem for the
9 witness and Google.

10 MS. MARA BOUNDY: Mara Boundy from
11 Google.

12 ATTORNEY ELMER: And will those on
13 the phone please identify themselves for the record
14 as well.

15 ATTORNEY VACA: Lauren Vaca for the
16 witness and Google.

17 ATTORNEY VASH: Serina Vash, Herman
18 Jones on behalf of Inform, Inc. and the individual
19 Action Newspaper Plaintiff.

20 ATTORNEY VERNON: Jeff Vernon for the
21 DOJ.

22 ATTORNEY BIRD: Dan Bird, Kellogg
23 Hansen for Daily Mail and Gannett.

24 CERTIFIED STENOGRAPHER: Good
25 morning. My name is Rich Germosen. I am a

1 certified stenographic reporter. My license is
2 available for inspection.

3 (Whereupon, the Certified
4 Stenographic Reporter administered the oath to the
5 witness.)

6
7 EISAR A. LIPKOVITZ,
8 having been first duly sworn or affirmed, was
9 examined and testified as follows:

10 EXAMINATION BY ATTORNEY WOOD:

11 BY ATTORNEY WOOD:

12 Q. Good morning, Mr. Lipkovitz.

13 You understand you're under oath just
14 as if you were in a courtroom with a judge and a
15 jury present?

16 Do you understand?

17 A. I do.

18 Q. Okay. Is there any reason you can't
19 give complete and accurate testimony today?

20 A. No.

21 Q. Okay. And do you understand that
22 your testimony could be used by the Department of
23 Justice in any civil, criminal, administrative, or
24 regulatory case or proceeding?

25 A. I do understand.

1

1 ATTORNEY ELMER: Object to form.

[REDACTED]

10 Q. Now, Bernanke was used to increase
11 the likelihood that GDN would win an auction,
12 including auctions on AdX; correct?

13 ATTORNEY ELMER: Object to form.

14 A. Correct.

15 Q. Do you recall in connection with
16 Project Bernanke there being a discussion about
17 so-called competitive auctions and so-called
18 noncompetitive auctions?

19 A. I heard -- I remember hearing that
20 name. I'm trying to remember what does that mean,
21 the noncompetitive ones.

22 Q. You don't?

23 A. I don't. I mean, it's entirely
24 possible -- I mean, there is one type of -- let me
25 say it differently. I think that we knew -- so when

160

6 Q. Well, I guess what I really wanted to
7 know is in connection with Project Bernanke, how did
8 Google determine whether a given auction was
9 competitive or not competitive?

10 ATTORNEY ELMER: Object to form.

11 Q. What were the criteria used to make
12 that assessment?

13 A. Yeah.

14 ATTORNEY ELMER: The same objection.

15 A. So, again, I think -- because I don't
16 believe it's a static thing. I think it's more of a
17 sort of threshold set automatically, but let's just
18 go over the fact that the Google Display Network,
19 the GDN, started mostly using the AdSense product.
20 That's a product, which is, you know, a complete
21 ecosystem. It's a publisher product for small
22 publishers, right. To my knowledge, maybe we
23 changed it, but for a very long time, the only
24 demand available was Google demand.

25 Q. Meaning GDN?

C E R T I F I C A T E

I, RICHARD GERMOSEN, Fellow of the
Academy of Professional Reporters, stenographic New
Jersey Certified Court Reporter, New Jersey Certified
Realtime Court Reporter, California Certified
Shorthand Reporter, California Certified Realtime
Reporter, NCRA Registered Diplomate Reporter, and
NCRA Certified Realtime Reporter, do hereby certify:

That EISAR A. LIPKOVITZ, the witness
whose deposition is hereinbefore set forth, having
been duly sworn, and that such deposition is a true
record of the testimony of said witness.

I further certify that I am not related
to any of the parties to this action by blood or
marriage, and that I am in no way interested in the
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 10th day of November 2023.

RICHARD GERMOSEN,
FAPR, RDR, CRR, CCR-NJ, CRCR, CSR-CA, CCRR-CA,
NYACR, NYRCR
LICENSE NO. 30XI00184700
LICENSE NO. 30XR00016800
California CSR No. 14391
California CRR No. 198